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EXAMINER	
LIEU, JULIE BICHNGOC	
ART UNIT	**PAPER NUMBER**
2612	

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/086,183	ANDREASSON ET AL.	
	Examiner	Art Unit	
	Julie Lieu	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10 and 30-70* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 30-70* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to Applicant's Affidavit filed July 01, 2005.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 55-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chung (US 2005/0110640).

Claim 55:

Chung discloses a method for monitoring administration of a medical product to a patient, the medical product comprising a Radio Frequency identification (RFID) tag for storing data related to the medical product, the method comprising:

a. reading the RFID tag 200 associated with the medical product to obtain the data stored in the RFID tag when the medical product passes along a transport path

b. accessing data associated with a patient, and verifying that the patient is intended to receive the medical product by comparing the data obtained from the RFID tag with the data associated with the patient (para. [0042].)

See fig. 1 and page 3 para. [0041] to page 4, para. [0057].

It is not clearly stated that the data stored in the RFID tag is obtained when the product passes through an entrance to the patient's room. Nonetheless, the reference suggests that the product (tracked object) is tracked along a transport path (para [0040]). Thus, it would have been obvious to one skilled in the art to read the object RIFD in Chung as it passes the entrance of a patient's room because the system is intended for use to verify that the medication should be administer to the right patient.

Claim 56:

The verifying step disclosed in Chung's further comprises comparing a product identifier from the data obtained from the RFID tag with a product identifier from the data associated with the patient.

Claim 57:

In Chung's, the product identifier comprises at least one of a product name, a dosage, and a product serial number.

Claim 58:

The method in Chung's further comprises displaying a mismatch notification when there is a mismatch between the data obtained from the RFID tag and the data associated with the patient. Para. [0056].

Claim 59:

Chung's method further comprises activating an output device when there is a mismatch between the data obtained from the RFID tag and the data associated with the patient. Para. [0056].

4. Claims 1-10, 30-54, and 60-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chung (US 2005/0110640) in view of Hickle et al. (US 2002/0188259).

Claim 1:

Chung discloses an apparatus for monitoring administration of medical products to a patient, each of the medical products comprising a RFID tag 200 for storing data related to the respective medical product, the apparatus comprising:

a. A reader 42 for reading RFID tags associated with a plurality of medical products placed in close proximity to the reader to obtain the data stored in the RFID tags;

b. A processor represented by 30coupled to the reader for processing data obtained from the RFID tags to identify the medical products.

The reference fails to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Hickle et al.. (See para. [0036]). In light of this teaching, it would have been obvious to a skilled artisan to readily recognized using a tag reader with ability to read multiple tags substantially simultaneously as in Hickle in the Chung system because it would be advantageous and desirable to read several tags at the same time.

Claim 2:

The Chung system has a memory coupled to the processor 30 for storing data associated with patient. See front-page figure.

Claim 3:

The processor 30 compares the product identifiers from the data obtain from the RFID tags with product identifiers from the data associated with the patient.

Claim 4:

The product identifiers used in Chung's is one of the product names and dosages. Para. [0043].

Claim 5:

A display 50 is coupled to the processor 30. See fig. 5B

Claim 6:

Chung discloses an output device coupled to the processor, and wherein the processor activates the output device when the processor detects a mismatch between the data obtained from the RFID tags and the data associated with the patient. See fig. 5B.

Claim 7:

The output device in the Chung system is a display 50 which is functionally equivalent to the at least one of a light indicator or an audio indicator. Furthermore, the use of a light or an audio indicator to provide a warning would not constitute an inventive concept because they are conventional in the art.

Claim 8:

It is not clearly stated in Chung's that the data stored in the RFID tag is obtained when the product passes through an entrance to the patient's room. Nonetheless, the reference suggests that the product (tracked object) is tracked along a transport path (para [0040]). Thus, it would have been obvious to one skilled in the art to read the object RIFD in Chung as it passes the entrance of a patient's room because the system is intended for use to verify that the medication should be administer to the right patient.

Claims 9 and 10:

In the combined system of Chung and Hickle, it would have been obvious to one skilled in the art to use a read pad to provide a surface for placing the medical products because the use of a read pad would allow the products to be read simultaneously more easily though not necessary.

Claim 30:

Chung discloses an apparatus thus a method for identifying a plurality of medical products, each of the medical products comprising a for storing data related to the respective medical product, the method comprising:

a. placing the plurality of medical products in close proximity to a RF antenna;

b. reading the Radio Frequency identification (RFID) tags associated with the medical products using the RF antenna to obtain the data stored in the RFID tags; and

c. identifying each of the plurality of medical products based upon the data obtained from the RFID tags.

See front-page figure.

The reference fails to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Hickle et al.. (See para. [0036]). In light of this teaching, it would have been obvious to a skilled artisan to readily recognized using a tag reader with ability to read multiple tags substantially simultaneously as in Hickle in the Chung system because it would be advantageous and desirable to read several tags at the same time.

Claim 31:

The method in Chung's further comprises recording administration of the identified medical products to a patient. See fig. 1 and page 3 para. [0041] to page 4, para. [0057].

Claim 32:

The identifying step in Chung's comprises accessing a database to obtain data associated with the medical products based upon the data obtained from the RFID tags.

Claim 33:

It is not clear in Chung's that the data obtained from the RFID includes location identifiers. However, it would have been obvious to one skilled in the art to configure the system to relate the product's location with the database to retrieve the product's information as desired. This feature would not be considered as an inventive step because it only presents a choice in design.

Claim 34:

The step in Chung's includes verifying that the patient is intended to receive the plurality of medical products by comparing the data obtained from the RFID tags with the data associated with the patient. See fig. 1 and page 3 para. [0041] to page 4, para. [0057].

Claim 35:

The Chung system includes a patient RFID tag 200 for uniquely identifying a patient intended to receive a medical product.

Claims 36-37:

It is not clearly stated in Chung's that the data stored in the RFID tag is obtained when the product passes through an entrance to the patient's room. Nonetheless, the reference suggests that the product (tracked object) is tracked along a transport path (para [0040]). Thus, it

would have been obvious to one skilled in the art to read the object RIFD in Chung as it passes the entrance of a patient's room because the system is intended for use to verify that the medication should be administer to the right patient.

Claim 38:

Chung suggests the use of the system in a healthcare pharmacy; therefore, a transport path in Chung could include the pharmacy doorway. Further, the use of the system in Chung and Hickle in a pharmacy would not alter the function of the device, thus, this feature does not present a novel or inventive step.

Claims 39:

Chung discloses an apparatus for monitoring administration of medical products to a patient, each of the medical products comprising a RFID tag 124a for storing data related to the respective medical product, the apparatus comprising:

c. A reader 42 for reading RFID tags associated with a plurality of medical products placed in close proximity to the reader to obtain the data stored in the RFID tags;

d. A processor 30 coupled to the reader 42 for processing data obtained from the RFID tags to identify the medical products.

The reference fails to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Hickle et al.. (See para. [0036]). In light of this teaching, it would have been obvious to a skilled artisan to readily recognized using a tag reader with ability to read multiple tags substantially simultaneously as in Hickle in the Chung system because it would be advantageous and desirable to read several tags at the same time.

Claim 40:

A display in Chung's is coupled to the processor 30 and the processor inherently controls the display 50 to display the identified medical products. See fig. 5B

Claim 41:

Chung further discloses a network interface 10 (see fig. 2) to the processor 30, and wherein the processor is configured for transmitting data obtained from the RFID tags using the network interface. See fig. 2.

Claim 42:

Processor 30 is configured for receiving a notification via network interface, in response to the transmission, indicating whether to administer the identified medical products. See fig. 2.

Claim 43:

A display 50 is coupled to the processor 30, and wherein the processor is configured for displaying the received notification on the display.

Claim 44:

An output device, display 50, is coupled to the processor 30, and wherein the processor 30 activates the output device when the received notification indicates that the identified medical products should not be administered. Para. [0056].

Claim 45:

The output device in Chung does not include least one of a light indicator and an audio indicator. However, one skilled in the art would have readily recognized that display 50provides an equivalent function of a light indicator to indicate an alarm condition.

Claims 46-52:

The rejection of claims 46-52 recites the rejection of claims 39-45.

Claim 53:

The reference fails to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Hickle et al.. (See para. [0036]). In light of this teaching, it would have been obvious to a skilled artisan to readily recognized using a tag reader with ability to read multiple tags substantially simultaneously as in Hickle in the Chung system because it would be advantageous and desirable to read several tags at the same time.

Claim 54:

Chung's method comprises reading the RFID tag associated with the medical product when the medical product is placed in close proximity to a reader. It is not clearly stated that the reader in the Chung system is a read pad; however, it would have been obvious to one skilled in the art to use a read pad in Chung' because it is functionally equivalent to the reader 42.

Claim 60:

Chung's method comprises reading the RFID tag associated with the medical product when the medical product is placed in close proximity to a reader. It is not clearly stated that the reader in the Chung system is a read pad; however, it would have been obvious to one skilled in the art to use a read pad in Chung' because it is functionally equivalent to the reader 42.

Claim 61:

It is not clear whether Chung records administration of the medical product to the patient when there is a match between the data obtained from the RFID tags and the data associated with the patient. However, it would have been obvious to one skilled in the art to incorporate the idea

into the Chung system because it would keep a record of the administering of the medical product to the particular patient for future purposes.

Claim 62:

The Chung reference fails to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Hickle et al.. (See para. [0036]). In light of this teaching, it would have been obvious to a skilled artisan to readily recognized using a tag reader with ability to read multiple tags substantially simultaneously as in Hickle in the system of Chung's because it would be advantageous and desirable to read several tags at the same time.

Claim 63:

The rejection of claim 63 recites the same rejection of claim 1, except it is a method claim.

Claims 64-67:

The rejection of claim 64-67 recites the same rejection of claims 3-6, except they are method claims.

Claim 68:

The rejection of claim 68 recites the same rejection of 8, except it is method claim.

Claim 69:

Chung's method comprises reading the RFID tag associated with the medical product when the medical product is placed in close proximity to a reader. It is not clearly stated that the reader in the Chung's system is a read pad; however, it would have been obvious to one skilled in the art to use a read pad in Chung's because it is functionally equivalent to the reader 42.

Claim 70:

It is not clear whether Chung records administration of the medical product to the patient when there is a match between the data obtained from the RFID tags and the data associated with the patient. However, it would have been obvious to one skilled in the art to incorporate the idea into the Chung system because it would keep a record of the administering of the medical product to the particular patient for future purposes.

Applicant's arguments

5. Applicant's affidavit states that Chung provisional application No. 60/248,454 filed November 14, 2000 did briefly discuss using RFID tags in dispensing medicine to a patient on pages 8-10 of that application. The Applicant contends that this is the only disclosure by a Chung application found before January 5, 2001. (A copy of those pages is enclosed (as Exhibit A)), and it is clear that the disclosure therein is completely insufficient to obviate the patentability of any of the present claims.

Response to Applicant's arguments

6. The disclosure of the provision application filed by Chung clearly describes the concept as claimed in the present invention, especially of that presented in the independent claims. The last paragraph does disclose reading the RFID tag and comparing the information in the tag with the data associated with a patient to verify that the patient is intended to be given the medication.

For the reason above, the rejection is maintained.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Julie Lieu
Primary Examiner
Art Unit 2612

Oct 26, 06